USACE Defense Base Act Insurance Program

Worker Compensation Insurance Program Rules and Regulations

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Overview

- What is DBA Insurance
- When DBA Insurance is Required
- Background/History
- PARC Instruction Letter
- If Premiums are Not Paid…
- Points of Contact

DBA Insurance

- What is DBA Insurance?
  - Congressionally mandated workers compensation insurance effective since 1941
    - 42 U.S.C. Sections 1651-1654, as amended
    - OSD issued guidance in December 2003
- It's the Law
  - Contractors **MUST** buy DBA insurance for its employees working outside the 50 states.
    - Unless under a self-insurance program approved by DOL or subject to a waiver (see FAR 28.305)

When is it Required?

- For Contractors and Subcontractors unless waived by DOL
- DOL Policy Letter for DoD is forthcoming –
  - Changes/Clarifications in Waivers
- A waiver can be requested from DOL
  - IAW FAR 28.305
- No waiver if:
    - Hired in the US
    - Resident of the US
    - Citizen of the US
    - If no Local Compensation Law Exists in Country

DBA Insurance

- The USACE-wide contract was awarded to Continental Insurance Company (CNA)
- CNA must be utilized whenever the contractor either obtains new DBA insurance or renews its existing DBA insurance
  - Why? Because this is a requirements contract
  - New Contract includes JCC-IA
  - Can't accept coverage from another insurance carrier
  - Otherwise, Government will be in breach of its contract with CNA, and can be sued for damages by CNA

Background/History

- Why does the USACE Program exist?
  - After 9/11 insurance costs became unaffordable for many companies, as much as $150 per $100 Compensation
  - Needed to find a way to help companies follow the DBA law
- Contract Information
  - In Third Year of Program (Since October 2005)
    - 1 October 2008 through 30 September 2009
    - One 12-mo Option Period
  - The Fixed rates are currently:
    - Services $4.00 per $100 Compensation
    - Construction $7.50 per $100 Compensation
    - Security $12.50 per $100 Compensation
    - Aviation $20.00 per $100 Compensation

PARC Instruction Letter

- New List of Country Waivers
- USACE and JCC-IA Contractors & Subs
- Pre-Award and Post-Award Responsibilities
  - Special Solicitation and Contract Requirements
  - When to Allow Performance (NTP)
  - Separately Price the DBA CLIN
- Oversight and Accountability
  - Leadership Responsibility
  - Contracting Officer Responsibility
  - Appoint Regional COR’s

If Premiums are Not Paid…

- Contracting Officer's responsibility
  - maintain DBA coverage *with* ***CNA***
- Get copy of the paid Invoice within 30 days
- If a contractor fails to maintain coverage
  - Withhold progress payments
  - Issue a Stop Work Order
  - Terminate the contract for default
  - Poor past performance CPARS, CCASS, ACASS

Points of Contact

- USACE DBA Subject Matter Expert
  - Procurement Analyst PARC-WIN:
    - Lynn Harper (540) 665-3998 lynn.harper@us.army.mil
- USACE Contracting Officer - HECSA
  - Susan Burchell (703) 438-8487
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- Department of Labor
  - Miranda Chiu (202) 761-7169 Chiu.miranda@dol.gov
  - Waiver Questions
    - John Chamberlain (202) 693-0925 Chamberlain.john@dol.gov

Points of Contact

- Rutherfoord International – Broker for CNA
  - USACE DBA Administrator
    - Ramoan Jones (703) 813-6543 romoan.jones@rutherfoord.com
  - Senior Vice President
    - Sara Payne (703) 813-6503 sara.payne@rutherfoord.com